

REMARKS/ARGUMENTS

Applicants have now had an opportunity to carefully consider the Examiner's comments set forth in the Final Office Action of May 11, 2010. Claims 1, 2, 11, 14, 19, 20, and 24 have been amended. Applicants submit that support for these amendments can be found in the disclosure as originally filed, and therefore no new matter has been added. Claims 1-27 remain in the application.

Reconsideration of the Application is requested.

The Office Action

Claims 1-10, 14, 16-27 stand rejected as being obvious over Chaney (US 6,947,724) in view of McHenry (6,397,055). Claims 11-13 and 15 stand rejected as being obvious over Chaney in view of McHenry and Chen (US 6,574,464).

Section 112 Rejections

The Office Action, on page 4, suggests that the limitation "the prepaid platform" lacks antecedent basis. Applicants note that claim 7 depends from claim 4, which includes "a prepaid platform." Likewise, claim 24, as amended, depends from claim 22, which also recites "a prepaid platform."

Accordingly, favorable reconsideration and withdrawal of the rejection of claims 7 and 24 under 35 U.S.C. §112 are respectfully requested.

Section 103 Rejections

Independent claim 1, as amended, recites, *inter alia*, continuously monitoring utilization of the network by a plurality of network users in real-time via a switching center in the network, *detecting at the switching center a reportable statistical event based upon the occurrence of a predetermined event trigger, wherein the predetermined event trigger comprises a trending threshold*, informing a usage level application of the reportable statistical event, determining at the usage level application whether a Usage Level Event has occurred, and recording at the usage level application the Usage Level Event, when it is determined that a Usage Level Event has occurred. The Usage Level Event is then reported to a set of network elements via the usage level

application and the switching center, where the set of network elements including a customer billing platform and a broadcast message application. A set of customers is notified of a change in pricing for calls based upon the Usage Level Event through the broadcast message application and a messaging center, when it is determined that a Usage Level Event has occurred. Independent claims 14 and 19 recite similar features.

Applicants submit that neither Chaney nor McHenry discloses at least the aforementioned features of independent claim 1. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of Chaney and McHenry is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

As stated above, the method of claim 1 involves *dynamically trending the usage level data*, which feature is not disclosed in McHenry, Chaney or Chen. In response to the examiner's argument regarding Claim 1, the exemplary embodiment of the invention includes the concept of delta-load, where Chaney is reporting absolute load. The notion of trending includes the rate of change of load, which is dynamic and not statically determined at the beginning of a call like it is for Chaney. The Office Action seems to equate the multiple billing levels mentioned by Chaney for different load levels with trending. Chaney, however, discloses nothing about **rate of change**. Ranges of load level are not the same thing as trending.

Indeed, Chaney is reporting load level directly to the users. It is not modulated in any way by other circumstances (e.g., network throttling due to national emergency versus voting with American Idol events). Additionally, if the traffic would normally spike at e.g., 3:00 pm when school lets out, nothing will prevent Chaney from reporting low usage at 2:58, even though experience shows that traffic will spike in 2 minutes.

McHenry does not detect the usage level events, only events of this particular A party and B party. McHenry does not detect any extraneous circumstances unrelated to the A party or B party. McHenry's events are reactive, not proactive. And the LIDB and SCP are databases; thus, they are not indicative of real-time dynamic events or circumstances.

Furthermore, the present invention allows for usage levels to be sent to users multiple times during a call/session, unlike Chaney which is sending the usage level

only prior to making a call.

In McHenry, notification is to a single user at a time, not broadcast. McHenry trigger's is directly equal to the user making the call, while our trigger is independent of the actions of the served user.

Accordingly, favorable reconsideration and withdrawal of the rejection of claims 1-10 and 14-27 under 35 U.S.C. §103 are respectfully requested.

Independent claim 11, as amended, includes, *inter alia*, sending a message to a targeted marketing application, the message indicating the Usage Level Event and the scope of the event, *wherein the scope of the event includes location information*, retrieving from a subscriber database billing rate information for the calling plans based upon the Usage Level Event, and querying the targeted marketing application for information concerning the customers that are active within the scope of the Usage Level Event and the calling plans that are impacted by the Usage Level Event.

Applicants submit that none of the cited references discloses at least the aforementioned features of independent claim 11. In particular, it is submitted that additional citation to Chen does not remedy the conceded deficiency in the citations to Chaney and McHenry. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of Chaney and McHenry with Chen is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The Office Action concedes that the citations to Chaney and McHenry do not disclose sending a message to a targeted marketing application, the message indicating the Usage Level Event and the scope of the event, retrieving from a subscriber database billing rate information for the calling plans based upon the Usage Level Event, and querying the targeted marketing application for information concerning the customers that are active within the scope of the Usage Level Event and the calling plans that are impacted by the Usage Level Event. (Office Action, page 25). Nonetheless, the Office Action rejects independent claim 11, contending that the additional citation to Chen provides this necessary disclosure. (Office Action, page 26). This contention is respectfully traversed.

The additional reference to Chen relates to trigger-based prepaid and postpaid

billing. Chen mentions location triggers for calling and called party, but applicants submit that the location trigger event occurs when the user enters or leaves a location (i.e., a location transition). In Chen, location isn't a thing that is "checked" as in the present invention. In the present invention, even if the user never moves, the method will take into account the user's location. Chen takes location into account only when the user moves. Thus, Chen does not provide a disclosure that remedies the deficiencies of Chaney and McHenry.

Independent claim 11 also includes sending a message to the customers that are active within the scope of the Usage Level Event, the message including a notification to the customers of a temporary change in pricing based upon the Usage Level Event.

Neither McHenry nor Chaney include the notion of checking if the user's location matches the "calls on sale" area after some amount of time, which is illustrated in FIG. 6, reference numeral 430, and described in paragraph [0058].

Accordingly, favorable reconsideration and withdrawal of the rejection of claims 11-13 under 35 U.S.C. §103 are respectfully requested.

Further, in the discussion about dependent claim 12, the messaging center that the Office Action mentions on page 26 is a tandem switch, which is different from an SMS center. The tandem switch is involved in the call handling, but cannot send "out of band" signals (i.e., outside of the call) to a user like an SMS center would be able to do in the present invention. Accordingly, favorable reconsideration and withdrawal of the rejection of claim 12 under 35 U.S.C. §103 are respectfully requested.

CONCLUSION

For at least the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1-27) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

☒ Remaining Claims, as delineated below:

(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT LESS HIGHEST NUMBER PREVIOUSLY PAID FOR		(3) NUMBER EXTRA
TOTAL CLAIMS	27	- 27 =	0
INDEPENDENT CLAIMS	4	- 4 =	0

☒ This is an authorization under 37 CFR 1.136(a)(3) to treat any concurrent or future reply, requiring a petition for extension of time, as incorporating a petition for the appropriate extension of time.

☒ The Commissioner is hereby authorized to charge any filing or prosecution fees which may be required, under 37 CFR 1.16, 1.17, and 1.21 (but not 1.18), or to credit any overpayment, to Deposit Account Number 06-0308.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to telephone John Zanghi, at 216.363.9000.


Respectfully submitted,

Fay Sharpe LLP

Date

10/12/10


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